

QUESTIONS & ANSWERS

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1. Q. What land qualifies for consideration under the Agricultural Preservation Restriction Act?
  - A. To be eligible the land must meet the minimum criteria under G.L. Chapter 61A, the Farmland Assessment Act. This means it must be at least 5 acres of agricultural land and have produced at least \$100 per acre gross sales annually on that acreage and have been in farming for the two consecutive years prior to application.
2. Q. How long does the application process take?
  - A. Once the completed application is received by the Department of Food and Agriculture it is reviewed and a field inspection is completed within 2 to 4 months. Following review of all new applications, priorities are established given the availability of funding. Worthy applications not able to be funded in any year build support for an additional program funding. If funding is available, selected applicants can expect approximately a 12 to 14 month period to elapse, from the time of application until reception of the money for the restriction. In emergencies, we can act faster through the services of local or state-wide land trusts.
3. Q. What does the Agricultural Preservation Restriction do to the landowners property rights?
  - A. Under the program, landowners still hold title to their property and they enjoy all the rights of property ownership except the property cannot be developed for non-agricultural purposes. The property can be leased, sold or devised. The restriction is in place for perpetuity unless otherwise released by holders of the restriction and a two-thirds vote of both houses of the Legislature. The Commonwealth compensates the landowner for this restriction.
4. Q. On what land or portions of the farm will the restriction be placed?
  - A. The restriction will be placed on the whole farm including the existing farmstead area which includes the residence, farm buildings and other structures. Landowners will be compensated for all land restricted except in the case of the lot occupied by a residence. The landowner has the opportunity to exclude the existing house lot and other lots (land) from the restriction, if desired. For example, if a family or employee residence is needed in the near future, it is suggested that the land be excluded. Exclusions should be agreeable to all parties.

GOVERNMENT DOCUMENTS  
COLLECTION

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5. Q. Who obtains the appraisals, how are appraisals made, and how is the value of the restriction determined?

A. The Commissioner will engage local professional appraisers to estimate the market and farm values for the transaction. The appraisals are paid by the Commonwealth. The value of the restriction is the difference between the highest market value before the imposition of the restriction and the remaining farm value after the restriction is in place.

6. Q. How will a restriction affect the local property tax paid on the farm?

A. The land is eligible for farmland assessment under G.L. Chapter 61A, and under the Agricultural Preservation Restriction Act, it will continue to be eligible as long as it is "actively devoted" to agriculture. The landowner should apply to the local assessor each year, prior to October 1 and the tax will be based on the current farm use. Dwellings and their lots and farm buildings will continue to be taxed as other real estate.

7. Q. If an owner sells his development rights, how can he reduce the impact of the capital gains tax?

A. The owner has a choice between a lump sum distribution and payments over a two year period. In addition, some part thereof could be a gift or bargain sale which can be deducted from income taxes. It is highly advisable that the owner obtain good financial advice in these matters.

8. Q. If an owner sells his development rights and places a restriction on his land, won't this affect his borrowing power?

A. Not necessarily. He will merely be changing a portion of his land equity to cash equity. While he will perhaps be able to borrow less on his land under restriction, he will already have the cash to reduce his need for borrowing, or will have invested the cash in some other form of equity against which he could presumably borrow.

9. Q. Will an Agricultural Preservation Restriction on the land affect municipal by-laws, zoning ordinances, building codes, and the like?

A. Not per se. Each will still apply in their own respect. Zoning, building codes, set-backs, health and safety regulations will remain applicable to all activities permitted under an agricultural preservation restriction.



10. Q. What is the role of the Conservation Commission and municipality in the A.P.R. Program?

A. Conservation Commissions are designated in the enabling legislation as the local agency to assist with the implementation of the program. Assistance should include the following: 1) assume a leadership role in educating farmland owners and local non-farmers about the A.P.R. Program; 2) assist applicants with completing their application and obtaining necessary soil, topographic and perimeter maps; 3) complete the municipal section of the application (Enclosure E) and solicit the support of other town boards (city departments); 4) determine the amount of financial contribution that could be provided to obtain co-holder status of the restriction with the Commonwealth; 5) develop an inventory of the best farmland remaining in the town, the status of its ownership and its potential productivity.

Providing a financial contribution and becoming a co-holder of the deed restriction means continued local control and surveillance of the restricted land. In addition, if the landowner ever petitioned for release of the restriction a town meeting (city council) vote would be required. This would be an extra approval over and above the Commissioner of Food and Agriculture and the Legislature. A suggested contribution level is 5 to 25 percent of the restriction cost. Contributions are necessary in municipalities that have high land values. Usually such areas are well-to-do suburbs or areas with an adequate commercial and/or industrial base. All municipalities are encouraged to contribute a minimum of \$1000. Such contributions permit the limited State funds to purchase more land than would otherwise be possible.

11. Q. Can a town purchase agricultural preservation restrictions by itself?

A. Yes. Under Chapter 232 of the Acts of 1977, a municipality may act alone and, if the approval of the Commissioner of Food and Agriculture is obtained, the restriction may enjoy the benefits of G.L. Chapter 184, Sections 31, 32 and 33.

12. Q. How much funding has the program received to date (January, 1982)?

A. Since December 1977, the A.P.R. Program has received a total of \$20 million. The source of money has been 10 year bonds. A permanent source of funding is presently being sought.

13. Q. What is the future of the A.P.R. Program and other related state policies?

A. The Agricultural Lands Preservation Committee visualizes continued annual funding at a rate of \$5 million as the minimum necessary to sustain an active A.P.R. Program. Either a long term bond amounting to \$30-50 million or a permanent source of annual funding would be a more effective approach. The more applications that are submitted to the program the better, as applications help build the needed support for continued funding.

In the future, it is hoped that agricultural incentive areas can be established to help encourage continued agricultural investment and production as well as assist the A.P.R. Program to select the most threatened farmland in a timely manner.

14. Q. Where can one obtain technical information on farming, soil types, etc., which would enable a Conservation Commission or a town to evaluate its farms and farmland?
- A. Contact the county Cooperative Extension Service, the county U.S.D.A. Soil Conservation Service and the Massachusetts Department of Food and Agriculture. Following is a list of U.S.D.A. Soil Conservation Service Offices, please consult your local directory for the Cooperative Extension Service.

SOIL CONSERVATION SERVICE OFFICES

<u>Hadley</u> -- 4 Whalley St., 01035 -- Richard Lewis Franklin, Hampshire, Hampden	413-586-5440
<u>Littleton</u> -- 225 Great Road., 01460 -- Robert Morehouse Essex, Middlesex, Suffolk	617-486-8715 or 3032
<u>Holden</u> -- 680 Main St., 01520 -- Ron Thompson Worcester County	617-829-6628
<u>Pittsfield</u> -- 78 Center St., 01201 -- Gary Parker Berkshire County	413-443-6867
<u>Raynham</u> -- 153 Broadway, 02767 -- Marc MacQueen Plymouth, Bristol, Norfolk Counties	617-824-6668
<u>Yarmouth Port</u> -- 477 Main St., -- Richard DeVergilio Barnstable County & Islands	617-362-9332

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